

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 1, 2001 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Mangan (D)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **SB 4 - 2-19-01**
SB 26 - 2-19-01
SB 29 - 2-19-01

Executive Action: SB 29 - BCI
SB 4 - BCIAA
SB 26 - Table
SB 217 - Table

HEARING ON SB 29

Sponsor: Senator Walter McNutt, SD 50, Sidney said this Bill was requested by the Department of Health and Human Services. It is an Act correcting inconsistencies between Title 41, Chapter 3, relating to Child Abuse and Neglect, and Title 41, Chapter 5, the Youth Court Act. SB 29 will clarify some inconsistencies between the two Acts that are confusing and this Bill will take that language out of the Montana Youth Court Act so the Department of Health and Human Services is not being confused with the Corrections system.

Proponents: Chuck Hunter, Administrator, Child Family Services Division, Department of Public Health. EXHIBIT(juh47a01)

Opponents: None

Questions from Committee Members and Responses: Reps. Hurdle, Noennig to Mr. Hunter.

Closing by Sponsor: Senator McNutt closed the Hearing on SB 29.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 12.3}

HEARING ON SB 4

Sponsor: Senator Grimes, SD 20, Clancy said this Bill originally was requested by the Law, Justice, and Indian Affairs Committee. There are still probationary employees with at-will employment status. In order to preserve that, he went into the wrongful discharge act on Page 2, added language, then the Senate made it a presumptive probationary period. Now if somebody is hired and there is no written probationary period, then from day one, it can be construed that employee is permanent.

This Bill has created a presumptive probationary period of 12 months and it also cleans up the language.

Proponents: Jim Nys, Self-employed Human Resource Consultant.
EXHIBIT(juh47a02)

John Cadby, Montana Bankers' Association

Bob Gilbert, on behalf of Riley Johnson, National Federation of Independent Businesses.

Bob Pyfer, Montana Credit Union League

LeRoy Schramm, Legal Counsel, Board of Regents, Montana University System.

Opponents: Mike Meloy, Attorney, Helena

{Tape : 1; Side : A; Approx. Time Counter : 12.3 - 29.8}

Al Smith, Montana Trial Lawyers' Association.

Don Judge, Montana AFL-CIO

Questions from Committee Members and Responses: Reps. Gallus, Peterson, Clancy, Noennig, Rice, Hurdle to Mr. Meloy, Senator Grimes, Mr. Smith, Mr. Schramm, Mr. Judge.

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 29.7}

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 12.7}

Closing by Sponsor: Senator Grimes closed the Hearing on SB 4 by saying this Bill will be very good for our employment climate in the State of Montana.

{Tape : 2; Side : A; Approx. Time Counter : 12.7 - 17.7}

HEARING ON SB 26

Sponsor: Senator Ric Holden, SD 1, Glendive said up to 40% of the drivers in Montana evade the law and drive without mandatory liability insurance. This Bill serves to address two issues:
(1) it deals with the uninsured drivers in the penalty section.
(2) it deals with malicious and frivolous litigation.

The owner-operator of a vehicle that does not carry mandatory insurance cannot sue for non-economic damages over and above Montana's financial responsibility limit of \$25,000. They can recover their economic damages, such as medical bills or lost wages, over and above Montana's financial responsibility limit which is \$25,000.

The offender that's breaking the law is only subject to this Bill after he's been caught twice. He then becomes a habitual offender and that's when this Bill takes over. At that point

the driver cannot sue for damages over and above the statutory cap. He stated for the record, the NFIP and the Chamber of Commerce supports the Bill.

{Tape : 2; Side : A; Approx. Time Counter : 17.7 - 24.9}

Proponents: Jacqueline Lenmark, National Insurance Association

Greg Van Horssen, State Farm Insurance Co.

{Tape : 2; Side : A; Approx. Time Counter : 24.9 - 29.3}

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 0.2}

Webb Brown, Montana Chamber of Commerce

Dwight Easton, Farmers Insurance Co.

Opponents: Al Smith, Montana Trial Lawyers Association,
EXHIBIT (juh47a03)

Claudia Clifford, Insurance Commissioner's Office

Wendy Young, Low Income Families (WEEL)

Questions from Committee Members and Responses: Reps. Harris, Clancy, Peterson, Laszloffy, Noennig, Gutsche to Senator Holden, Mr. Van Horssen, Mr. Smith for further clarification.

{Tape : 2; Side : B; Approx. Time Counter : 0.2 - 29.6}

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 7.3}

Closing by Sponsor: Senator Holden closed the Hearing on SB 26 by saying this Bill further puts into statute requirements that bar people from tapping your personal resources and those insurance carriers for which premiums are paid and limits the amount of recovery. These are the statutes that deal with the penalties associated with carrying mandatory insurance coverage.

{Tape : 3; Side : A; Approx. Time Counter : 7.3 - 9.6}

EXECUTIVE ACTION ON SB 29

Motion/Vote: REP. CLANCY moved that SB 29 BE CONCURRED IN. #1
Motion carried unanimously 18-0.

EXECUTIVE ACTION ON SB 4

Motion: REP. RICE moved that SB 4 BE CONCURRED IN. #2

Motion: REP. YOUNKIN moved that SB 4 BE AMENDED, conceptually to delete line 6. #3

Discussion: Reps. Younkin, Noennig.

Substitute Motion: REP. NOENNIG made a substitute motion that SB 4 BE AMENDED. #4 Withdrawn.

Discussion: Reps. Peterson, Harris, Hurdle.

Substitute Motion: REP. PETERSON moved that SB 4 BE AMENDED to put a period after "reason" instead would add "or for no reason" and delete line 6. #6

Discussion: Reps. Noennig, Shockley, Peterson, Newman, Laszloffy.

Vote: Peterson Substitute Motion #6 carried 16-2 with Reps. Gutsche and Hurdle voting no.

Motion: REP. YOUNKIN moved that SB 4 BE AMENDED, lines 8 and 9, to delete the words "the longer of twelve months" and insert "six months". #7

Discussion: Rep. Noennig.

Substitute Motion: REP. PETERSON made a substitute motion that SB 4 BE AMENDED to strike lines 7 - 13. #8

Discussion: Reps. Rice, Gutsche, Laszloffy, Noennig, Holden, Younkin.

{Tape : 3; Side : A; Approx. Time Counter : 9.6 - 29.7}

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 6.0}

Vote: Motion on Peterson Substitute amendment #8 failed on a tie vote 9-9.

Discussion: Mr. MacMaster

Substitute Motion: REP. GALLUS made a substitute motion that SB 4 BE AMENDED to strike lines 7-13. #9

Discussion: Rep. Peterson, Laszloffy, Gallus, Shockley, Gutsche, Newman, Yunkin, Adams.

Vote: Gallas substitute motion #9 failed 8-11 with Reps. Shockley, Laszloffy, Adams, Clancy, Curtiss, Harris, Holden, Noennig, Rice, Wolery and Yunkin voting no.

Substitute Motion/Vote: REP. PETERSON made a substitute motion that SB 4 BE AMENDED to change from six months to ninety days. #10 Motion failed 9-10 with Reps. Shockley, Laszloffy, Adams, Clancy, Curtiss, Holden, Noennig, Rice, Wolery and Yunkin voting no.

Substitute Motion/Vote: REP. NOENNIG made a substitute motion that SB 4 BE AMENDED, Line 8, Page 2. #11 Motion carried unanimously. 19-0

Motion: REP. YUNKIN moved that SB 4 BE AMENDED, 3rd amendment. #12

Substitute Motion: REP. NOENNIG made a substitute motion that SB 4 BE AMENDED to delete language on line 7, and delete lines 10-13. #13

Discussion: Reps. Peterson, Laszloffy, Shockley.

Motion/Vote: REP. NOENNIG moved that SB 4 BE CONCURRED IN AS AMENDED. #14 Motion carried 13-7 with Reps. Clark, Eggers, Gallus, Gutsche, Hurdle, Mangan and Newman voting no.

{Tape : 3; Side : B; Approx. Time Counter : 4.1 - 29.6}

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 2.3}

ADJOURNMENT

Adjournment: 11:00 A.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh47aad)